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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/053,490	10/26/2001	Kobby Pick	10559-454001/P10771	3410
20985	7590	12/15/2005	EXAMINER	
FISH & RICHARDSON, PC P.O. BOX 1022 MINNEAPOLIS, MN 55440-1022			PHU, PHUONG M	
			ART UNIT	PAPER NUMBER
			2631	

DATE MAILED: 12/15/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action Before the Filing of an Appeal Brief	Application No. 10/053,490	Applicant(s) PICK ET AL.	
	Examiner Phuong Phu	Art Unit 2631	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 25 November 2005 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: 19-23.
Claim(s) objected to: 2 and 15.
Claim(s) rejected: 1, 3-14, 16-18 and 24-28.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Attachment.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). _____.
13. ☒ Other: Attachment.

PHUONG PHU
PRIMARY EXAMINER

Phuong Phu 12/12/05
Phuong Phu
Primary Examiner
Art Unit: 2631

ATTACHMENT

This Attachment is responsive to the Applicant's Response filed on 11/25/05.

The applicant mainly argues that (i) With respect to claim 1, neither of Gonzalez et al and Sriram et al describe nor suggest a normalization factor that is determined using a determined variance of multiple access interference to the output of a receiver; (ii) With respect to claim 9, neither of Gonzalez et al and Sriram et al describe nor suggest a normalization is based on a determined variance of multiple access interference; and (iii) With respect to claim 24, neither of Gonzalez et al and Sriram et al describe nor suggest a normalization factor that is determined based on a determined variance of a level of multiple access interference.

-Regarding to part (i), the examiner respectfully disagrees.

Gonzalez et al discloses step (12, 14, 16) of determining a normalization factor "confidence factor ($h(y)$)" (outputted from (14) for a normalization process (12, 14, 16, 18) (see figure 2, and [0047]). Gonzalez et al does not disclose that the normalization factor is determined by using a variance of a multiple access interference. However, Gonzalez et al receiver (figure 2) can be applied in a CDMA communication environment (see [0004, 0007, 0014]), and Gonzalez et al disclose that the normalization factor is determined by being based on a variance of interference/noise (σ^2) (see [0030-0032, 0046, 0047]); and Gonzalez et al is silent on how in detail the is σ^2 obtained.

Sriram et al teaches that in a CDMA communication environment, the interference/noise at the output of a receiver is accounted by thermal noise and multiple access interference "inter and intra-cell interference, and cross correlation among different PN sequences, or their shift"; and the total variance of additive Gaussian noise can be used to represent said interference/noise (see

Art Unit: 2631

col. 1, lines 18-59, col. 18, lines 1-37). Or, namely, in Sriram et al, the variance of interference/noise can be represented by the total variance of additive Gaussian noise.

Therefore, it would have been obvious for one skilled in the art, when applying Gonzalez et al invention in a CDMA communication environment, to include thermal noise and possible multiple access interferences for accounting for the interference/noise at Gonzalez et al receiver, and the variance of the interference/noise would be represented by the total variance of additive Gaussian noise, as taught by Sriram et al, so that in such Gonzalez et al invention in view of Sriram et al, the total variance of additive Gaussian noise would be obtained to represent for the σ^2 , as being required.

With the above rationale, it can be said here that in Gonzalez et al invention in view of Sriram et al, the normalization factor is determined by using a variance of a multiple access interference.

-Regarding to parts (ii) and (iii), the examiner also disagrees, with similar reasons set forth above for part (i).

12/12/05

Phung phu

PHUONG PHU
PRIMARY EXAMINER